

AMENDED IN SENATE MARCH 25, 2003

SENATE BILL

No. 185

Introduced by Senator Sher

February 12, 2003

An act to amend ~~Section~~ *Sections 398.4 and 398.5* of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as amended, Sher. Electricity: source disclosure.

The existing Public Utilities Act, provides for the furnishing of utility services, including electricity, by privately owned public utilities subject to the jurisdiction and control of the Public Utilities Commission and similar services by publicly owned public utilities.

Existing law establishes a program under which entities offering electric services disclose accurate, reliable, and simple to understand information on the generation attributes of the electricity they propose to sell, *including eligible renewables, as defined*, and requires beginning March 1, 1999, and annually thereafter, that certain electricity source information be reported to the California Energy Resources Conservation and Development Commission (Energy Commission). *Existing law provides that retail supplier of electricity that does not make any claims that identify its electricity sources as different than net system electricity is authorized to disclose net system electricity sources.*

This bill would require that beginning April 1, 2004, and annually thereafter, that retail suppliers report the information to the Energy Commission. *The bill would delete the provision authorizing a retail supplier of electricity that does not make any claims that identify its electricity generation sources as different than net system electricity, to*

disclose net system electricity sources, and would require that all retail suppliers disclose electricity sources as specific purchases. The bill would also require the disclosure of electricity generated from an eligible renewable energy resource, as defined.

Since existing law makes any public utility, as defined, and any person or entity other than a public utility, that violates the Public Utilities Act guilty of a misdemeanor, and the provisions of the bill would be within the act, this bill would impose a state-mandated local program by expanding a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 398.4 of the Public Utilities Code is*
- 2 *amended to read:*
- 3 398.4. (a) Every retail supplier that makes an offering to sell
- 4 electricity that is consumed in California shall disclose its
- 5 electricity sources. ~~A retail supplier that does not make any claims~~
- 6 ~~that identify its electricity sources as different than net system~~
- 7 ~~power may disclose net system power. Every retail supplier that~~
- 8 ~~makes an offering to sell electricity that is consumed in California~~
- 9 ~~and makes any claims that identify any of its electricity sources as~~
- 10 ~~different than net system power shall disclose these sources as~~
- 11 ~~specific purchases.~~
- 12 (b) The disclosures required by this section shall be made to
- 13 potential end-use consumers in all product-specific written
- 14 promotional materials that are distributed to consumers by either
- 15 printed or electronic means, except that advertisements and
- 16 notices in general circulation media shall not be subject to this
- 17 requirement.
- 18 (c) The disclosures required by this section shall be made at
- 19 least quarterly to end-use consumers of the offered electricity.

(d) The disclosures required by this section shall be made separately for each offering made by the retail supplier.

(e) On or before January 1, 1998, the California Energy Resources Conservation and Development Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation-related.

(g) The disclosures required by this section shall be expressed as a percentage of annual *retail electricity* sales derived from each of the following categories, ~~unless no specific purchases are disclosed, in which case only the first category shall be disclosed:~~

~~(1) Net system power.~~

~~(2) Specific purchases.~~

~~(h) (1) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the categories specified as follows sources used for the generation of electricity:~~

~~(A)~~

~~(1) Coal.~~

~~(B)~~

~~(2) Large hydroelectric (greater than 30 megawatts).~~

~~(C)~~

~~(3) Natural gas.~~

~~(D)~~

~~(4) Nuclear.~~

~~(5) Eligible renewable energy resource, as defined in Section 399.12.~~

~~(E)~~

~~(6) Other.~~

~~(F) Eligible renewables, which means renewable resource technologies defined as electricity produced from other than a conventional power source within the meaning of Section 2805; provided that a power source utilizing more than 25 percent fossil fuel may not be included, shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the subcategories specified as follows:~~

~~(i) Biomass and waste.~~

~~(ii) Geothermal.~~

1 ~~(iii) Small hydroelectric (less than or equal to 30 megawatts).~~

2 ~~(iv) Solar.~~

3 ~~(v) Wind.~~

4 ~~(2) The category “Other” shall be used for fuel types other than~~
5 ~~those listed above that represent less than 2 percent of net system~~
6 ~~power. The~~

7 ~~(h) The California Energy Resources Conservation and~~
8 ~~Development Commission may specify additional categories or~~
9 ~~change these the categories specified in subdivision (g), consistent~~
10 ~~with the requirements of this article and subject to public hearing,~~
11 ~~if it determines that the changes will facilitate the disclosure~~
12 ~~objectives of this section.~~

13 ~~(i) All electricity sources disclosed as specific purchases shall~~
14 ~~meet the requirements of subdivision (b) of Section 398.2.~~

15 ~~(j) Specific purchases identified pursuant to this section shall~~
16 ~~be from sources connected to the Western Systems Electricity~~
17 ~~Coordinating Council transmission system interconnected grid.~~

18 ~~(k) Net system power shall be disclosed for the most recent~~
19 ~~calendar year available. Disclosure of net system power shall be~~
20 ~~accompanied by this qualifying note: “The State of California~~
21 ~~determines this net system power mix annually; your actual~~
22 ~~electricity purchases may vary.” The California Energy Resources~~
23 ~~Conservation and Development Commission may modify this~~
24 ~~note, consistent with the requirements of this article and subject to~~
25 ~~public hearing, if it determines that the changes will facilitate the~~
26 ~~disclosure objectives of this section.~~

27 ~~(l) For each offering made by a retail supplier for which~~
28 ~~specific purchases are disclosed, the retail supplier shall disclose~~
29 ~~projected specific purchases for the current calendar year.~~
30 ~~Projected specific purchases need not be disclosed by numerical~~
31 ~~percentage at the subcategory level identified in subparagraph (F)~~
32 ~~of paragraph (1) of subdivision (h). On or before April 15, 1999~~
33 ~~July 1, 2004, and annually thereafter, every retail supplier that~~
34 ~~discloses specific purchases shall also disclose to its customers,~~
35 ~~separately for each offering made by the retail supplier, its actual~~
36 ~~specific purchases for the previous calendar year consistent with~~
37 ~~information provided to the California Energy Resources~~
38 ~~Conservation and Development Commission pursuant to Section~~
39 ~~398.5. Disclosure of projected specific purchases and actual~~
40 ~~specific purchases shall each be accompanied by statements~~

1 identifying whether the data are projected or actual, as developed
2 by the California Energy Resources Conservation and
3 Development Commission, subject to public hearing.

4 ~~(m)–~~

5 (l) The provisions of this section shall not apply to generators
6 providing electric service onsite, under an over-the-fence
7 transaction as described in Section 218, or to an affiliate or
8 affiliates, as defined in subdivision (a) of Section 372.

9 SEC. 2. Section 398.5 of the Public Utilities Code is amended
10 to read:

11 398.5. (a) Retail suppliers ~~that disclose specific purchases~~
12 ~~pursuant to Section 398.4 shall report on April 1, shall report on~~
13 ~~May 1, 2004, and annually thereafter, to the California Energy~~
14 ~~Resources Conservation and Development Commission, for each~~
15 ~~electricity offering, for the previous calendar year each of the~~
16 ~~following:~~

17 (1) The ~~kilowatt-hour~~ *kilowatthours* purchased, by generator
18 and fuel type during the previous calendar year, consistent with
19 the meter data, including losses, reported to the system operator.

20 (2) For each electricity offering the ~~kilowatt-hour~~
21 *kilowatthours* sold at retail.

22 (3) For each electricity offering the disclosures made to
23 consumers pursuant to Section 398.4.

24 (b) Information submitted to the California Energy Resources
25 Conservation and Development Commission pursuant to this
26 section that is a trade secret as defined in subdivision (d) of Section
27 3426.1 of the Civil Code shall not be released except in an
28 aggregated form such that trade secrets cannot be discerned.

29 (c) On or before January 1, 1998, the California Energy
30 Resources Conservation and Development Commission shall
31 specify guidelines and standard formats, based on the
32 requirements of this article and subject to public hearing, for the
33 submittal of information pursuant to this article.

34 (d) In developing the rules and procedures specified in this
35 section, the California Energy Resources Conservation and
36 Development Commission shall seek to minimize the reporting
37 burden and cost of reporting that it imposes on retail suppliers.

38 (e) On or before October 15, 1999, and annually thereafter, the
39 California Energy Resources Conservation and Development
40 Commission shall issue a report comparing information available

1 pursuant to Section 398.3 with information submitted by retail
2 suppliers pursuant to this section, and with information disclosed
3 to consumers pursuant to Section 398.4. This report shall be
4 forwarded to the California Public Utilities Commission.

5 (f) Beginning ~~April~~ June 15, 1999, and annually thereafter, the
6 California Energy Resources Conservation and Development
7 Commission shall issue a report calculating net system power. The
8 California Energy Resources Conservation and Development
9 Commission will establish the generation mix for net generation
10 imports delivered at interface points and metered by the system
11 operators. ~~The California Energy Resources Conservation and~~
12 ~~Development Commission shall issue an initial report calculating~~
13 ~~preliminary net system power for calendar year 1997 on or before~~
14 ~~January 1, 1998. This report shall be updated on or before October~~
15 ~~15, 1998.~~

16 (g) The provisions of this section shall not apply to generators
17 providing electric service onsite, under an over-the-fence
18 transaction as described in Section 218, or to an affiliate or
19 affiliates, as defined in subdivision (a) of Section 372.

20 (h) The California Energy Resources Conservation and
21 Development Commission may verify the veracity of
22 ~~environmental~~ specific purchase claims made by retail suppliers.

23 *SEC. 3. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*